

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

DEUTSCHE BANK NATIONAL
TRUST COMPANY, as Trustee, on
behalf of the registered holders of
GSAMP Trust 2005-HE-1,
Mortgage Pass-Through Certificates,
Series 2005-HE1
3815 South West Temple
Salt Lake City, Utah 84115-4412

Case No. 1:15-cv-814

Judge Timothy S. Black
Magistrate Judge Stephanie K. Bowman

Plaintiff,

vs.

DONNA L. WOLF, *et al.*,

Defendants.

**DECISION AND ENTRY
ADOPTING THE REPORT AND RECOMMENDATIONS (Doc. 15)
OF THE UNITED STATES MAGISTRATE JUDGE**

This case is before the Court pursuant to the Order of General Reference in the United States District Court for the Southern District of Ohio Western Division to United States Magistrate Judge Stephanie K. Bowman. Pursuant to such reference, the Magistrate Judge reviewed the pleadings filed with this Court, and, on July 27, 2016, submitted a Report and Recommendations (“R&R”). (Doc. 15). Defendants Donna Wolf and James Wolf, Jr. (“Wolf Defendants”) objected to the R&R on August 12, 2016. (Doc. 16). The Wolf Defendants also filed a Motion to Strike the R&R from the record on August 12, 2016. (Doc. 17).

As required by 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b), the Court has reviewed the comprehensive findings of the Magistrate Judge and considered *de novo* all of the filings in this matter. Upon consideration of the foregoing, the Court does determine that such R&R should be and is hereby **ADOPTED**.

The Magistrate Judge recommends that Plaintiff's motion for reconsideration of remand (Doc. 13) be denied. For the reasons stated in the R&R and in the previous R&R recommending that Plaintiff's motion to remand be granted (Doc. 8), the Court once again agrees that it does not have jurisdiction and must remand this case. For these same reasons, the Wolf Defendants' objections (Doc. 16) are **OVERRULED**, and their motion to strike the R&R (Doc. 17) is **DENIED**.

The Magistrate Judge also recommends, as she did in her previous R&R (Doc. 8), that Plaintiff's request for the imposition of reasonable costs and fees be granted. As noted in the original R&R, "[a]n order remanding the case may require payment of just costs and any actual expenses, including attorney fees, incurred as a result of the removal." 28 U.S.C. § 1447(c) (emphasis added). An award of costs and attorney fees is discretionary. *See Martin v. Franklin Capital Corp.*, 546 U.S. 132, 136 (2005).

This Court opted not to award costs and fees in its order granting in part the first R&R (Doc. 11), citing the need to afford leniency to the filings of *pro se* litigants in determining whether attorney's fees were warranted. *See Williams v. City of Southfield*, 99 Fed. App'x 44, 46 (6th Cir. 2004). However, Defendants have now once again raised the same meritless claims concerning subject matter jurisdiction that were already

rejected by this Court. (*See* Doc. 11). At this point, this Court determines that the Wolf Defendants lacked an objectively reasonable basis for continuing to argue the issue of subject matter jurisdiction and that their filing of the motion for reconsideration of remand to state court (Doc. 13) merits the imposition of sanctions.

Accordingly, for the foregoing reasons:

1. Defendants' motion for reconsideration of remand (Doc. 13) is **DENIED**;
2. Plaintiff's request for the imposition of reasonable costs and fees (Doc. 14) is **GRANTED**;
3. Defendants' motion to strike magistrate's report and recommendation on reconsideration (Doc. 17) is **DENIED**;
4. The Wolf Defendants are **ORDERED** to pay Plaintiff, Deutsche Bank National Trust Co., reasonable costs and fees in the amount of \$1,200.00.

IT IS SO ORDERED.

Date: 8/24/16

s/ Timothy S. Black
Timothy S. Black
United States District Judge